



Ohio Legislative Service Commission

Bill Analysis

Dennis M. Papp

S.B. 177

130th General Assembly
(As Introduced)

Sens. Skindell, Brown, Cafaro, Gentile, Kearney, Schiavoni, Sawyer, Smith, Tavares, Turner

BILL SUMMARY

- Permits the court, when issuing a criminal protection order based on a crime not involving a family or household member, a criminal temporary protection order based on a crime involving a family or household member, or a civil stalking, domestic violence, or sexually oriented offense protection order or consent agreement, to include within the scope of the protection order or consent agreement any companion animal in the residence of the person to be protected and to issue any additional orders, including any of a list of specified types of orders, as it considers appropriate for the protection of a companion animal.

CONTENT AND OPERATION

Protection of companion animals in protection orders

The bill amends the sections of the Revised Code dealing with the issuance of protection orders by courts other than juvenile courts (see "**Background – juvenile court protection orders**," below) to include the protection of a companion animal within the scope of the orders. In all of the bill's amendments to those sections, "companion animal" means any animal that is kept inside a residential dwelling and any dog or cat regardless of where it is kept; "companion animal" does not include livestock or any wild animal.¹

¹ R.C. 2903.213(J), 2903.214(A), 2919.26(K), and 3113.31(A), by reference to R.C. 959.131, which is not in the bill.

Criminal protection orders based on a crime not involving a family or household member

Under current law, upon the filing with the court that has jurisdiction of the case of a criminal complaint that does not involve a family or household member and that alleges a violation of R.C. 2903.11 (felonious assault), 2903.12 (aggravated assault), 2903.13 (assault), 2903.21 (aggravated menacing), 2903.211 (menacing by stalking), 2903.22 (menacing), or 2911.211 (aggravated trespass), a violation of a municipal ordinance substantially similar to any of those sections containing a misdemeanor offense, or the commission of a sexually oriented offense, the complainant, the alleged victim, or a family or household member of an alleged victim may file a motion with the court requesting a protection order as a pretrial condition of release. The court must conduct a hearing on the motion not later than the next court day after the motion is filed.

If the court finds at the hearing that the safety and protection of the complainant or alleged victim may be impaired by the continued presence of the alleged offender, the court may issue a protection order as a pretrial condition of release that contains terms designed to ensure the safety and protection of the complainant or the alleged victim, including any of a list of specified requirements. The court also may issue such a protection order pursuant to its own motion (upon the filing of a complaint alleging a violation described above).

If the court issues such a protection order as an *ex parte* order, it must conduct, not later than the next court day after its issuance, a hearing to determine whether the order should remain in effect, be modified, or be revoked.²

The bill does not change the procedures for requesting or granting such a protection order. However, it provides that the court may include within the scope of the order any companion animal that is in the complainant's or alleged victim's residence and may issue additional orders as it considers appropriate for the protection of the companion animal, including any of the list of specified types of orders described in the next paragraph.³

The bill specifies that the "additional orders" that the court may issue with respect to the protection of the companion animal include:⁴

² R.C. 2903.213.

³ R.C. 2903.213(C), (D), and (J).

⁴ R.C. 2903.213(D) and (J).

(1) An order directing the alleged offender to refrain from abusing, threatening, injuring, concealing, disposing of, or interfering with the care, custody, and control of *a companion animal that is in the possession of the complainant or the alleged victim or the alleged offender or that is owned by the complainant or the alleged victim*;

(2) An order to remove *a companion animal* from the possession of the alleged offender;

(3) An order permitting the complainant or the alleged victim to return to the residence to remove *a companion animal* from the possession of the alleged offender;

(4) An order prohibiting the alleged offender from having any contact with the companion animal;

(5) An order directing law enforcement to assist in the safe removal of *a companion animal* from the possession of the alleged offender.

Civil stalking or sexually oriented offense protection orders involving any person

Under current law, a person may file a petition in the court of common pleas of the county in which the person resides alleging that another person who is 18 or older engaged in a violation of R.C. 2903.211 (menacing by stalking) against the person or against a family or household member of the person or committed a sexually oriented offense against the person or a family or household member of the person and requesting the issuance of a civil stalking or sexually oriented offense protection order. If a person who files a petition requests an *ex parte* order, the court must hold an *ex parte* hearing not later than the next court day after the petition is filed. The court, for good cause shown at the *ex parte* hearing, may enter any temporary orders that it finds necessary for the safety and protection of the person to be protected by the order. If the court issues a protection order after an *ex parte* hearing, it must schedule a full hearing for a date that is within ten court days after the *ex parte* hearing. The court must give the respondent notice of, and an opportunity to be heard at, the full hearing.

If a person who files a petition does not request an *ex parte* order, or if a person requests an *ex parte* order but the court does not issue an *ex parte* order after an *ex parte* hearing, the court must proceed as in a normal civil action and grant a full hearing on the matter. After an *ex parte* or full hearing, the court may issue a protection order that contains terms designed to ensure the safety and protection of the person to be protected by the protection order, including any of a list of specified requirements.⁵

⁵ R.C. 2903.214.

The bill does not change the procedure for requesting or issuing such a protection order. However, the bill specifies that the court may include within the scope of the order any companion animal that is in the residence of the person to be protected and may issue additional orders as it considers appropriate for the protection of the companion animal, including any of the list of specified types of orders described above in (1) to (5) under "**Criminal protection orders based on a crime not involving a family or household member**" (except that the references in those provisions to the "alleged offender" are changed in this part of the bill to references to the "respondent" and the references in those provisions to the "complainant" and the "alleged victim" are changed in this part of the bill to references to the "person to be protected").⁶

Criminal temporary protection orders based on a crime involving a family or household member

Under current law, upon the filing of a criminal complaint that alleges a violation of R.C. 2909.06 (criminal damaging or endangering), 2909.07 (criminal mischief), 2911.12 (burglary), or 2911.211 (aggravated trespass) or of a similar municipal ordinance, any offense of violence, or any sexually oriented offense, if the alleged victim of any of those violations or offenses was a family or household member at the time of the violation, the complainant, the alleged victim, a family or household member of an alleged victim, or another specified person may file a motion that requests the issuance of a temporary protection order as a pretrial condition of release of the alleged offender. The court must conduct a hearing on the motion not later than 24 hours after the filing of the motion to determine whether to issue the order.

If, after the hearing, the court finds that the safety and protection of the complainant, alleged victim, or any other family or household member of the alleged victim may be impaired by the continued presence of the alleged offender, the court may issue a temporary protection order as a pretrial condition of release that contains terms designed to ensure the safety and protection of the complainant, alleged victim, or family or household member, including any of a list of specified requirements. The court also may issue such an order on its own motion (upon the filing of a complaint alleging any of the above violations or offenses).

If the court issues a temporary protection order as an *ex parte* order, it must conduct a hearing in the presence of the alleged offender not later than the next court day after the day on which the alleged offender was arrested or at the time of the

⁶ R.C. 2903.214(A) and (E)(1)(a).

appearance of the alleged offender pursuant to summons to determine whether the order should remain in effect, be modified, or be revoked.⁷

The bill does not change the procedure for requesting or issuing such a protection order. However, it provides that the court may include within the scope of the order any companion animal that is in the complainant's or alleged victim's residence and may issue additional orders as it considers appropriate for the protection of the companion animal, including any of the list of specified types of orders described above in (1) to (5) under "**Criminal protection orders based on a crime not involving a family or household member.**"⁸

Domestic violence or sexually oriented offense civil protection orders involving a family or household member

Under current law, a person may file a petition in a court of common pleas alleging that a respondent engaged in domestic violence against a family or household member (defined to include acts generally thought of as domestic violence and also the commission of a sexually oriented offense against a family or household member) and requesting the issuance of a civil domestic violence protection order. If a person who files such a petition requests an *ex parte* order, the court must hold an *ex parte* hearing on the same day that the petition is filed. The court, for good cause shown at the *ex parte* hearing, may enter any temporary orders that it finds necessary to protect the family or household member from domestic violence. If the court issues a protection order after an *ex parte* hearing, it must schedule a full hearing within ten days (or within seven days in some circumstances) and give the respondent notice of, and an opportunity to be heard at, the full hearing.

If a person who files a petition does not request an *ex parte* order, or if a person requests an *ex parte* order but the court does not issue an *ex parte* order after an *ex parte* hearing, the court must proceed as in a normal civil action and grant a full hearing on the matter.

After an *ex parte* or full hearing, the court may grant any protection order or approve any consent agreement to bring about the cessation of domestic violence against the family or household members, including by providing any of a list of specified remedies.⁹

⁷ R.C. 2919.26.

⁸ R.C. 2919.26(C)(1), (D)(1), and (K).

⁹ R.C. 3113.31.

The bill does not change the procedures for requesting or issuing such a protection order or approving such a consent agreement. However, it provides that the court may include within the order or consent agreement any companion animal that is in the petitioner's residence and may issue additional orders as it considers appropriate for the protection of the companion animal, including any of the list of specified types of orders described above in (1) to (5) under "**Criminal protection orders based on a crime not involving a family or household member**" (except that the references in those provisions to the "alleged offender" are changed in this part of the bill to references to the "respondent" and the references in those provisions to the "complainant" and the "alleged victim" are changed in this part of the bill to references to the "petitioner").¹⁰

Background – juvenile court protection orders

Current law, not in the bill, sets forth a procedure for obtaining a protection order issued by a juvenile court against a person under 18 years of age who allegedly has committed a specified act of assault, menacing, or trespass or a sexually oriented offense.¹¹ The bill does not amend the procedure for obtaining a protection order issued by a juvenile court against a person under 18 years of age to include protection of a companion animal.

HISTORY

ACTION	DATE
Introduced	08-12-13

S0177-I-130.docx/ks

¹⁰ R.C. 3113.31(A) and (E)(10).

¹¹ R.C. 2151.34, not in the bill.

